



House of Representatives

General Assembly

File No. 403

February Session, 2004

Substitute House Bill No. 5025

House of Representatives, April 1, 2004

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT STRENGTHENING ETHICS LAWS CONCERNING GIFTS, FINANCIAL DISCLOSURE AND STATE CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-83 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) (1) All state-wide elected officers, members of the General
4 Assembly, department heads and their deputies, members of the
5 Gaming Policy Board, the executive director of the Division of Special
6 Revenue within the Department of Revenue Services, members or
7 directors of each quasi-public agency, members of the Investment
8 Advisory Council, state marshals and such members of the Executive
9 Department and such employees of quasi-public agencies as the
10 Governor shall require, shall file, under penalty of false statement, a
11 statement of financial interests for the preceding calendar year with the
12 commission on or before the May first next in any year in which they

13 hold such a position. Any such individual who leaves his or her office
14 or position shall file a statement of financial interests covering that
15 portion of the year during which such individual held his or her office
16 or position. The commission shall notify such individuals of the
17 requirements of this subsection within thirty days after their departure
18 from such office or position. Such individuals shall file such statement
19 within sixty days after receipt of the notification.

20 (2) Each state agency, department, board and commission shall
21 develop and implement, in cooperation with the Ethics Commission,
22 an ethics statement as it relates to the mission of the agency,
23 department, board or commission. The executive head of each such
24 agency, department, board or commission shall be directly responsible
25 for the development and enforcement of such ethics statement and
26 shall file a copy of such ethics statement with the Department of
27 Administrative Services and the Ethics Commission.

28 (b) (1) The statement of financial interests, except as provided in
29 subdivision (2) of this subsection, shall include the following
30 information for the preceding calendar year in regard to the individual
31 required to file the statement and the individual's spouse and
32 dependent children residing in the individual's household: (A) The
33 names of all businesses with which associated; (B) the category or type
34 of all sources of income in excess of one thousand dollars, without
35 specifying amounts of income; (C) the name of securities in excess of
36 five thousand dollars at fair market value owned by such individual,
37 spouse or dependent children or held in the name of a corporation,
38 partnership or trust for the benefit of such individual, spouse or
39 dependent children; (D) the existence of any known blind trust and the
40 names of the trustees; (E) all real property and its location, whether
41 owned by such individual, spouse or dependent children or held in the
42 name of a corporation, partnership or trust for the benefit of such
43 individual, spouse or dependent children; (F) the names and addresses
44 of creditors to whom the individual, the individual's spouse or
45 dependent children, individually, owed debts of more than ten
46 thousand dollars; [and] (G) any leases or contracts with the state held

47 or entered into by the individual or a business with which he or she
48 was associated; and (H) a description of any partnership, joint
49 ownership or similar business affiliation between (i) a business
50 included under subparagraph (A) of this subdivision with which the
51 individual filing the statement, the individual's spouse or a dependent
52 child of the individual is associated, and (ii) a lobbyist, a person that
53 the individual filing the statement knows or has reason to know is
54 doing business with or seeking to do business with the state or is
55 engaged in activities that are directly regulated by the department or
56 agency in which the individual is employed, or a business with which
57 such lobbyist or person is associated. (2) The statement of financial
58 interests filed by state marshals shall include only amounts and
59 sources of income earned in their capacity as state marshals.

60 (c) The statement of financial interests filed pursuant to this section
61 shall be a matter of public information, except the list of names, filed in
62 accordance with subparagraph (F) of subdivision (1) of subsection (b)
63 of this section shall be sealed and confidential and for the use of the
64 commission only after a complaint has been filed under section 1-82
65 and such complaint has been determined by a vote of the commission
66 to be of sufficient merit and gravity to justify the unsealing of such list
67 or lists and not open to public inspection unless the respondent
68 requests otherwise. If the commission reports its findings to the Chief
69 State's Attorney in accordance with subsection (c) of section 1-88, the
70 commission shall turn over to the Chief State's Attorney such relevant
71 information contained in the statement as may be germane to the
72 specific violation or violations or a prosecutorial official may subpoena
73 such statement in a criminal action. Unless otherwise a matter of
74 public record, the Ethics Commission shall not disclose to the public
75 any such subpoena which would be exempt from disclosure by the
76 issuing agency.

77 (d) Any individual who is unable to provide information required
78 under the provisions of subdivision (1) of subsection (b) of this section
79 by reason of impossibility may petition the commission for a waiver of
80 the requirements.

81 Sec. 2. Section 1-84 of the general statutes, as amended by section
82 146 of public act 03-6 of the June 30 special session, is amended by
83 adding subsection (p) as follows (*Effective October 1, 2004*):

84 (NEW) (p) No public official or state employee shall knowingly
85 accept, directly or indirectly, any goods or services provided to the
86 state under subdivision (5) of subsection (e) of section 1-79, by a person
87 prohibited from making gifts to public officials and state employees
88 under this section or section 1-97, without the approval of the
89 commission.

90 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Not later than thirty days
91 after the effective date of this section, each state agency and quasi-
92 public agency shall publish on the agency's web site each existing
93 contract entered into by the agency and having a cost of more than one
94 hundred thousand dollars.

95 (b) Not later than fifteen days after any state agency or quasi-public
96 agency enters into a contract having a cost of more than one hundred
97 thousand dollars, the agency shall publish such contract on the
98 agency's web site.

99 (c) As used in this section, "quasi-public agency" has the same
100 meaning as provided in section 1-79 of the general statutes.

101 Sec. 4. (NEW) (*Effective October 1, 2004*) (a) As used in this section,
102 (1) "gift" has the same meaning as provided in section 1-79 of the
103 general statutes, except that the exclusion in subdivision (12) of
104 subsection (e) of said section 1-79 for a gift for the celebration of a
105 major life event shall not apply, (2) "quasi-public agency", "public
106 official" and "state employee" have the same meanings as provided in
107 section 1-79 of the general statutes, and (3) "participated substantially"
108 has the same meaning as provided in regulations adopted by the State
109 Ethics Commission pursuant to section 1-92 of the general statutes.

110 (b) The State Properties Review Board shall not approve a contract
111 or lease, proposed by a state agency, except for The University of

112 Connecticut, and having a cost of more than five hundred thousand
113 dollars, unless the agency submits to said board:

114 (1) An affidavit, which shall be submitted by each person, firm or
115 corporation submitting a bid or proposal for the contract or lease. The
116 affidavit shall be submitted with the bid or proposal and shall be
117 signed by the official of the person, firm or corporation who submits
118 such bid or proposal. Such affidavit shall attest to whether or not such
119 person, firm, corporation, and any official or employee of the person,
120 firm or corporation or any agent of such official, employee or person,
121 firm or corporation, who participated substantially in preparing the
122 bid or proposal, provided a gift during the five-year period preceding
123 the submission of such bid or proposal to (A) any public official or
124 state employee of the state agency soliciting bids or proposals for the
125 contract or lease, or (B) any public official or state employee of any
126 other state agency having supervisory or appointing authority over
127 such state agency, which public official or state employee participated
128 substantially in the preparation of the bid solicitation or request for
129 proposals for the contract or lease. The affidavit shall also attest that no
130 such official or employee of the person, firm or corporation or agent of
131 such official, employee or person, firm or corporation knows of any
132 action by the person, firm or corporation to circumvent the
133 requirements of this subdivision by providing for any other official,
134 employee or agent to provide a gift to any such public official or state
135 employee. If any gift described in this subdivision was provided, the
136 affidavit shall include a description of the gift and the value and
137 approximate date of the gift;

138 (2) An affidavit signed by the official of the person, firm or
139 corporation awarded the contract or lease, which shall be submitted at
140 the time the contract or lease is executed. The affidavit shall attest to
141 whether or not gifts described in subdivision (1) of this subsection
142 were provided between the date of the affidavit under subdivision (1)
143 of this subsection and the date of execution of the contract or lease to
144 public officials or state employees who participated substantially in the
145 negotiation or award of the contract or lease. If any such gift was

146 provided, the affidavit shall include a description of the gift and the
147 value and approximate date of the gift;

148 (3) An affidavit, signed by each public official or state employee
149 who participated substantially in the bid solicitation or request for
150 proposals for the contract or lease, attesting to whether or not such
151 official or employee received a gift during the five-year period
152 preceding the submission of the bid or proposal from any person, firm
153 or corporation submitting a bid or proposal, any official or employee
154 of the person, firm or corporation, or any agent of such official,
155 employee, person, firm or corporation. If any such gift was received
156 under this subdivision, the affidavit shall include a description of the
157 gift and the value and approximate date of the gift; and

158 (4) An affidavit, signed by each public official or state employee
159 who participated substantially in the negotiation or award of the
160 contract or lease, attesting to whether or not gifts described in
161 subdivision (3) of this subsection were received between the date of
162 the affidavit under subdivision (3) of this subsection and the date of
163 execution of the contract or lease. If any such gift was received, the
164 affidavit shall include a description of the gift and the value and
165 approximate date of the gift.

166 (c) No quasi-public agency or The University of Connecticut shall
167 execute a contract or lease having a cost of more than five hundred
168 thousand dollars unless the agency or said university obtains the
169 affidavits described in subsection (b) of this section.

170 (d) The provisions of subsections (b) and (c) of this section shall also
171 apply to (1) any subcontract under a contract pursuant to said
172 subsections (b) and (c), which subcontract has a cost of more than five
173 hundred thousand dollars, and (2) an amendment to a contract, lease
174 or subcontract under said subsections (b) and (c), which amendment
175 has a cost of more than five hundred thousand dollars. The affidavits
176 required for such amendments shall apply to gifts provided or
177 received during the five-year period preceding the date of execution of
178 the amendment.

179 (e) The provisions of subsections (b), (c) and (d) of this section shall
180 not apply to a contract for a grant required under the general statutes
181 to be provided in accordance with a formula.

182 (f) Each affidavit required under this section shall be sworn as true
183 to the best knowledge and belief of the person signing the affidavit,
184 subject to the penalties of false statement.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Ethics Com.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Various State Agencies	All Appropriated Funds - Cost	Potential Significant	Potential Significant
Inf. Technol., Dept.	GF - Cost	400,000	300,000
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	81,700	181,500
Pub. Works, Dept.	GF - Cost	100,000	96,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires each state agency to publish on its website each contract valued at over \$100,000. This will have significant impact on the Department of Information Technology (DOIT). In FY 05, DOIT will require \$100,000 for additional hardware and software to handle the Internet contract publishing requirements under the bill. DOIT will also require five full-time positions with total salary costs of \$300,000, plus fringe benefits to meet the Internet contract publishing provisions of this bill.

The provisions of the bill require the Department of Public Works (DPW) to post construction contracts on the Internet. The agency estimates that it will need to upload approximately 3,550 pages per fiscal year. DPW will require two full-time positions (an Affirmative Action Officer and an Administrative Assistant) with total salary costs of \$96,000, plus fringe benefits to meet the Internet contract publishing provisions. The Other Expenses costs associated with these positions is \$4,000 in FY 05 for two computers, a scanner, some furniture and office supplies.

Requiring each state agency to publish on its website contracts valued at over \$100,000 will result in a workload increase for various state agencies that may require additional resources or positions.

This bill makes various technical adjustments to strengthen the state ethics laws. It broadens the information public officials provide in their annual statement of financial interest to include business affiliations between a business to which they are associated. This statement must be filed with the State Ethics Commission annually by May 1.

It requires public officials or state employees to get the State Ethics Commission's approval before accepting goods or services from anyone prohibited from giving gifts to the official or employee. The State Ethics Commission will be able to respond to the bill's requirements within existing agency resources. The State Ethics Commission could have a potential revenue gain for civil fines assessed to those in violation of these provisions.

OLR Bill Analysis

sHB 5025

***AN ACT STRENGTHENING ETHICS LAWS CONCERNING GIFTS,
FINANCIAL DISCLOSURE AND STATE CONTRACTORS*****SUMMARY:**

This bill prohibits the State Properties Review Board (SPRB) from approving, and quasi-public agencies and UCONN from executing, contracts or leases valued at over \$500,000 unless they receive an affidavit regarding "gifts" given to the officials or employees involved in soliciting or awarding them. "Gift" has the same meaning that it has in the State Ethics Code, which is generally anything of value given for less than its value. The law contains 16 gift exceptions, including items valued at \$10 or less; certificates or ceremonial awards valued at less than \$100; and gifts given at major life events. The bill limits to \$100 the value of allowable gifts given at major life events.

It broadens the information public officials provide in their annual statement of financial interest to include business affiliations between a business to which they are associated and others.

It requires public officials or state employees to get the State Ethics Commission's approval before knowingly accepting, either directly or indirectly, any goods or services to the state from anyone prohibited from giving gifts to the official or employee. By law, state officials cannot receive gifts from lobbyists or people doing or seeking to do business with their agency. The penalty for violating this and other provisions of the State Ethics Code are a civil fine of up to \$2,000 per violation or, for willful violations, up to one year in prison, a \$2,000 fine, or both.

Lastly, the bill requires each state agency and quasi-public agency to publish on its website each of its contracts valued at over \$100,000.

EFFECTIVE DATE: October 1, 2004

AFFIDAVIT REQUIREMENT

The bill prohibits the SPRB from approving, and UCONN and certain

quasi-public agencies from executing, contracts or leases valued at over \$500,000 unless they receive affidavits from (1) the person or business submitting a bid or proposal for the contract or lease, (2) the person or the official of the business awarded it, (3) each public official or state employee who participated substantially in the bid solicitation or request for proposal (RFP) for it, and (4) each official or employee who participated substantially in negotiating or awarding it. "Substantial participation" is direct, extensive, and substantive, not peripheral, clerical, or ministerial.

The quasi-public agencies the bill covers are: the Connecticut Development, Connecticut Health and Education Facilities, Connecticut Higher Education Supplemental Loan, Connecticut Housing Finance, Connecticut Housing, Connecticut Resources Recovery, Lower Fairfield County Convention Center, Capital City Economic Development, and Connecticut Port authorities; Connecticut Hazardous Waste Management Service; and Connecticut Innovations, Incorporated.

Each person signing an affidavit does so under penalty of false statement and swears that the information he provides is true to the best of his knowledge and belief.

If the contract or lease is over \$500,000, the prohibition also applies to its subcontracts and any amendments to it over \$500,000. The prohibition does not apply to a contract for any formula grant.

Bidder Affidavits

The bidder affidavit must be submitted with the bid or proposal. He must attest to whether he or any official, employee, or agent of his business who participated substantially in preparing the bid or proposal gave a gift during the preceding five years to any official or employee of (1) the agency soliciting the bid or (2) any other agency that supervises or makes appointments to the soliciting agency and that participated substantially in preparing the bid or proposal.

The affidavit must also attest that no such official, employee, or agent knows of any action by the business to circumvent the affidavit requirement by getting anyone else to give a gift to an official or employee of the soliciting agency.

Affidavits From People or Businesses Awarded Contract or Leases

The affidavit from the contract or lease recipient must be submitted when the contract or lease is executed. It must attest to whether gifts were provided to the officials or employees of the soliciting agency who participated substantially in the negotiation or award of the contract or lease (or agency with supervisory or appointing authority) between the date the bidder affidavit was signed and the date the contract or lease was executed.

Affidavits from Participants in the Solicitation or RFP Process

The affidavit from the participants in the bid solicitation or RFP for the contract or lease must attest to whether they received a gift from the bidder or his agent or employees during the five years preceding the bid or proposal submission.

Affidavits from Awarding Authorities

The affidavit from the officials or employee who participated substantially in negotiating or awarding the contract or lease must attest to whether gifts were received between the date the participants in the bid solicitation or RFP signed their affidavit and the date the contract or lease was executed.

Duty When Gifts Given

If any gift was given in any of the above-described situations, the affidavit must describe it, its value, and the approximate date that it was given.

STATEMENT OF FINANCIAL INTEREST

The bill requires public officials to describe in their annual statement of financial interest any business affiliation between a business associated with the official and (1) a lobbyist; (2) a person the official knows or has reason to know is doing, or seeking to do, business with the state; (3) a person engaged in activities regulated by the official's department or agency; or (4) the lobbyist's or other person's associated business. The bill covers a business owned by an official or his spouse or dependent child or one where any one of them works; serves as officer, director, or compensated agent; or owns at least 5% of the stock in any

class.

CONTRACT PUBLICATION REQUIREMENT

By November 1, 2004, the bill requires each state agency and quasi-public agency to publish on its website each of its contracts valued at over \$100,000. The agencies must publish contracts at this threshold entered after this date within 15 days of the entry date.

BACKGROUND

Statement of Financial Interests

With a few exceptions, public officials must file a statement of financial interests with the State Ethics Commission annually, by May 1. The statement includes the official's and his spouse's and dependent child's financial interests for the preceding calendar year. Officials required to file the statement include: statewide elected officials, legislators, department heads and their deputies, and members or directors of each quasi-public agency.

Related Bills

sSB 392, favorably reported by the Government Administration and Elections Committee on March 19, requires the SPRB to approve most state construction and purchasing contracts valued at \$500,000 or more and privatization contracts valued at over \$500,000.

sHB 5433, also favorably reported by the Government Administration and Elections Committee on March 19, requires bidders to include a copy of their affidavit in any application for prequalification to work on a construction contract valued at \$500,000 or more.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 0